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June 22, 1955

CONCORD, N.H.

Stuart B. Wilkins, Business Manager
Division of Business Management
Department of Health
Concord, New Hampshire

Dear Mr. Wilkins:

In reply to your letter of June 22, 1955, to Mr. Wyman requesting an interpretation to certain footnotes in proposed amendments to House Bills No. 529 and No. 530 as pertains to the Department of Health, I answer as follows.

You first inquired as to the paragraph entitled "Hospital services: federal" with respect to the line item for personal services in the amount of \$3,642.50 and the asterisk footnote. This footnote reads, "In case federal funds are not available in the amount estimated the department is authorized to transfer from state funds for personal services in other divisions to this account." It is my opinion that this footnote applies only to the asterisked line item and therefore only to federal funds allotted for this purpose. If the federal funds actually allotted are not in the estimated amount of \$3,642.50, the Department is then authorized to make a transfer to this item from state funds for personal services in other divisions.

You have next inquired as to the proposed amendment to the paragraph entitled "Maternal and child health and crippled children's services: federal" and the note appearing at the end of the appropriations for the Department of Health and referred to in the above mentioned paragraph. This paragraph reads as follows:

"This amount available for expenditure only if funds are available as a federal grant. If and when federal funds for all divisions of the department of health (exclusive of that for convalescent care and clinics, the maternal and child health and crippled children's services) totalling \$213,110.00 shall be received, not exceeding \$40,000.00 federal funds received in excess thereof

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may be expended for said convalescent care and clinics for the division of maternal and child health and crippled children's services. Provided further that in any division of said department the excess in federal funds received over and above that required for expenditures for convalescent care and clinics, maternal and child health and crippled children may be expended with the approval of the governor and council for purposes hereinabove provided."

It is my opinion that the intent of the above quoted paragraph, as expressed in the second sentence thereof, is that the first \$213,110.00 received as federal funds shall be expended as provided in the budget of the Department for all budgetary line items exclusive of that for convalescent care and clinics, the maternal and child health and crippled children's services. Federal funds then received from all sources in excess of the aforementioned \$213,110.00 and not exceeding \$40,000.00 may be expended for said convalescent care and clinics for the Division of Maternal and Child Health and Crippled Children services.

It would appear that the proviso contained in the last sentence of the aforementioned footnote authorizes the Department, upon the approval of the Governor and Council, to expend for the purposes enumerated in the second sentence of the footnote any excess of federal funds in any division over that required for expenditure in said division for convalescent care and clinics, maternal and child health and crippled children. If in the Department there is no division which has a budgetary line item for convalescent care and clinics, maternal and child health and crippled children other than that in the paragraph with which we are here concerned, the proviso would appear to be without too much meaning. In that case, it could only be effective to authorize expenditure, with approval of the Governor and Council, of federal money received by the Department in excess of the \$40,000.00 federal funds received from any source.

Very truly yours,

Richard C. Duncan
Assistant Attorney General

RCD/aml